

State of Colorado



Bill Ritter, Jr.
Governor

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Board Director

State Personnel Board
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AGENDA PUBLIC BOARD MEETING September 18, 2007

A public meeting of the State Personnel Board will be held on **Tuesday, September 18, 2007, at the Colorado State Personnel Board, 633 17th Street, Suite 1400, Courtroom 1, Denver, Colorado 80202-3604.** The public meeting will commence at 9:00 a.m.

Reasonable accommodation will be provided **upon request** for persons with disabilities. If you are a person with a disability who requires an accommodation to participate in this meeting, please notify Board staff at 303-866-3300 by September 13, 2007.

I. REPORT OF RICH GONZALES, STATE PERSONNEL DIRECTOR (EXECUTIVE DIRECTOR, DEPARTMENT OF PERSONNEL AND ADMINISTRATION [DPA])

II. REQUESTS FOR RESIDENCY WAIVERS

A. September 1, 2007 Report on Residency Waivers

Reports are informational only; no action is required.

III. PENDING MATTERS

There are no pending matters before the Board this month.

IV. REVIEW OF INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES ON APPEAL TO THE STATE PERSONNEL BOARD

A. Barbara Pridemore v. Department of Public Health & Environment, State Personnel Board case number 2007G073.

Complainant filed a petition for hearing challenging a corrective action imposed by Respondent and upheld through the grievance process. The matter was set for preliminary review, and the parties' information sheets were due on or before April 23, 2007. On April 20, 2007, Complainant requested a one-week extension of time within which to file her Information Sheet. The ALJ granted the extension of time, and the information sheets were due no later than April 30, 2007, pursuant to Board Rule 8-50(C). The ALJ dismissed Complainant's petition for hearing for failing to timely file her Information Sheet, pursuant to Board Rule 8-50(F). Complainant then filed a notice of appeal of the Dismissal Order.

V. REVIEW OF PRELIMINARY RECOMMENDATIONS OF THE ADMINISTRATIVE LAW JUDGES TO GRANT OR DENY PETITIONS FOR HEARING

- A. Selisa Hall v. Department of Human Services, Colorado Mental Health Institute at Pueblo, State Personnel Board case number 2008G010.

Complainant, a Nurse at the Colorado Mental Health Institute at Pueblo, filed a petition for hearing challenging the imposition of a corrective action. Complainant alleges that the Respondent violated the grievance procedure and "the facts on evidence do not support the conclusions and decision reached by the appointing authority."

Respondent asserts that the Complainant's allegations do not permit the granting of a discretionary hearing, that DHS did not violate any grievance procedures, and that Complainant has no grounds to allege that the matter should be set for hearing.

On September 6, 2007, the Administrative Law Judge issued a preliminary recommendation, recommending that the petition for hearing be denied.

VI. INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES

- A. Robert Todd Gonser v. Department of Transportation, State Personnel Board case number 2007B098 (September 4, 2007).

Complainant appealed his disciplinary thirty-day suspension, his one-year disciplinary demotion from a Professional Engineer I to an Engineer in Training III, and the prohibition on in-state, work-related overnight travel trips for a period of one year. He sought reduction or elimination of the demotion and/or the suspension, as well as removal of his travel restrictions. After hearing, the ALJ determined that Complainant committed the acts for which he was disciplined, that is, driving a CDOT truck while intoxicated, and hitting two parked vehicles. The ALJ also found that the appointing authority's action was not arbitrary, capricious, or contrary to rule or law because she used reasonable care and diligence to gather all of the relevant information concerning the allegations against Complainant; reviewed all of the potentially relevant policies and procedures, the police report, the accident report, the field sobriety test results, the results of Complainant's blood alcohol level, and a report from two persons who interviewed Complainant; and considered all of the information provided by Complainant during the Board Rule 6-10 meeting, email he sent her following the meeting, and his mitigating circumstances. Affirming Respondent's actions and dismissing Complainant's appeal with prejudice, the ALJ concluded that the discipline imposed was within the range of reasonable alternatives.

VII. REVIEW OF THE MINUTES FROM THE AUGUST 21, 2007 PUBLIC MEETING OF THE STATE PERSONNEL BOARD

VIII. ACKNOWLEDGMENTS

DECISIONS OF THE STATE PERSONNEL BOARD MADE AT ITS AUGUST 21, 2007 PUBLIC MEETING:

- A. Joseph MacDonald v. Department of Transportation, State Personnel Board case number 2007B030.

The Board voted to strike Complainant's exhibits B through J, except for Exhibits F and G, attached to the Response to Brief on Appeal by Joseph P. MacDonald, and to adopt the findings of fact and conclusions of law in the Initial Decision of the Administrative Law Judge and to make the Initial Decision of the Administrative Law Judge an Order of the Board.

- B. Sarah Rounds v. Department of Human Services, Colorado State Veterans Home at Fitzsimons, State Personnel Board case number 2007G091.

The Board voted to adopt the Preliminary Recommendation of the Administrative Law Judge and to grant the petition for hearing on the issue of discriminatory harassment based on race, sex and retaliation under the Colorado Anti-Discrimination Act.

IX. REPORT OF DAVID KAYE, DIRECTOR OF THE DIVISION OF HUMAN RESOURCES, DPA

X. ADMINISTRATIVE MATTERS & COMMENTS

A. ADMINISTRATIVE MATTERS

- Cases on Appeal to the Board and to Appellate Courts
- Mandate - Order Affirmed in Harthan v. Department of Natural Resources, Division of Wildlife, State Personnel Board case number 2006G034, Court of Appeals No. 06CA0728
- Website statistics: June 2007 - 101,841; July 2007 - 145,049; August 2007 - 145,828

B. OTHER BOARD BUSINESS

- Staff Activities

C. GENERAL COMMENTS FROM ATTORNEYS, EMPLOYEE ORGANIZATIONS, PERSONNEL ADMINISTRATORS, AND THE PUBLIC

XI. PROPOSED LEGISLATION AND/OR RULEMAKING

XII. EXECUTIVE SESSION

- A. Case Status Report
- B. Minutes of the August 21, 2007 Executive Session
- C. Other Business

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NEXT REGULARLY SCHEDULED BOARD MEETINGS - 9:00 a.m.

October 16, 2007	Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604
November 20, 2007	Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604
December 18, 2007	Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604
January 15, 2008	Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604
February 19, 2008	Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604
March 18, 2008	Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604
April 15, 2008	Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604
May 20, 2008	Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604
June 17, 2008	Colorado State Personnel Board 633 17th Street, Suite 1400, Courtroom 1 Denver, CO 80202-3604